

Office of the Standing Chapter 13 Trustee
105 Decker Ct
Suite 1150 11th Floor
Irving, TX 75062
(214) 855-9200

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

IN RE:
GERALD WAYNE KOSSIE

CASE NO: **14-35352-HDH-13**

Debtor

Pre-Hearing: **January 31, 2019 at 8:30 A.M.**

**TRUSTEE'S MOTION TO DISMISS FOR FAILURE TO COMPLY WITH ORDER APPROVING TRUSTEE'S
MODIFICATION OF PLAN AFTER CONFIRMATION REGARDING EXCESS TAX REFUND**

TO THE HONORABLE U.S. BANKRUPTCY JUDGE:

Now comes, Thomas D. Powers, the Chapter 13 Trustee, and files this Trustee's Motion to Dismiss for Failure to Comply with Order Approving Trustee's Modification of Plan after Confirmation Regarding 2017 Excess Tax Refund and in support thereof would respectfully show the Court as follows:

1. This Court has jurisdiction over this matter pursuant to 28 U.S.C. Sections 157 and 1334 and 11 U.S.C. Section 1307.
2. Debtor(s) herein filed a voluntary petition in bankruptcy under Chapter 13 of the Bankruptcy Code.
3. Debtor(s) received a tax refund for 2017 in excess of \$2000.00.
4. The Trustee filed his Modification of Plan after Confirmation requesting that the Debtor(s) pay the tax refund in excess of \$2000.00 ("Excess Refund") to the Trustee and that the plan base be raised by the amount of the Excess Refund.
5. This Court entered an Order Approving Trustee's Modification of Plan after Confirmation and requiring Debtor(s) to tender the Excess Refund of \$3,288.00 to the Trustee within sixty (60) days of the entry of the Order.
6. Sixty (60) days have passed since the entry of the Order, and the Debtor(s) have failed to tender the funds to the Trustee.
7. The Trustee requests that this case be dismissed for cause for failure to timely tender \$3,288.00 to the Trustee.

WHEREFORE, PREMISES CONSIDERED, Thomas D. Powers, the Chapter 13 Trustee, requests this Court grant this Motion to Dismiss and for such other and further relief as this Court deems just and proper.

TRUSTEE'S MOTION TO DISMISS FOR FAILURE TO COMPLY WITH ORDER APPROVING TRUSTEE'S MODIFICATION OF PLAN AFTER CONFIRMATION REGARDING EXCESS TAX REFUND

Case # 14-35352-HDH-13 GERALD WAYNE KOSSIE

Date: 12/20/2018

Respectfully submitted,
Thomas D. Powers, CHAPTER 13 TRUSTEE

By: /s/ Thomas D. Powers

Thomas D. Powers
State Bar No. 16218700
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Irving, TX 75062
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NOTICE OF HEARING

You are hereby notified of the filing of the foregoing Trustee's Motion to Dismiss and Notice of Hearing thereon. A pre-hearing conference on the Trustee's Motion to Dismiss will be held on **1/31/2019** at 8:30 AM by the Trustee at 105 Decker Court, Suite 120, 1st Floor, Irving, TX 75062. Any objection or response to the proposed Motion not resolved or defaulted at the Pre-Hearing Conference will be heard by the Court at 2:00 pm on **1/31/2019** at 1100 Commerce Street, 14th Floor, Dallas, TX 75242. You do not have to attend the pre-hearing conference or hearing unless you oppose the Motion.

Certificate of Service

I hereby certify that a copy of the foregoing **TRUSTEE'S MOTION TO DISMISS FOR FAILURE TO COMPLY WITH ORDER APPROVING TRUSTEE'S MODIFICATION OF PLAN AFTER CONFIRMATION REGARDING EXCESS TAX REFUND** was served on the following parties at the addresses listed below by United States First Class Mail and/or by electronic service.

Debtor: Gerald Wayne Kossie, 635 Camden Ct, Lancaster, Tx 75146
Attorney: Leinart Law Firm, 11520 N Central Expressway, Suite 212, Dallas, Tx 75243**
Notice Creditor(s): Barrett Daffin Frappier Et Al, 15000 Surveyor Blvd Suite 100, Addison, Tx 75001**
County Of Dallas, Co Linebarger Goggan Blair Et Al, 2777 N Stemmons Fwy Ste 1000,
Dallas, Tx 75207**
Shapiro Schwartz Et Al Llp, 13105 Northwest Fwy Ste 1200, Houston, Tx 77040**

**Indicates party has elected to receive all notifications via electronic service and was not served a copy via United States First Class Mail.

Date: 12/20/2018

By: /s/ Thomas D. Powers

Thomas D. Powers